basis of value and area as between the purchaser and the Maori vendor, then, taking all purchases together, the aggregate sum paid to the Maoris was more than sufficient purchase-money according to the yardstick for the total area eventually granted to the purchasers plus all the "surplus lands." In other words, he takes each transaction by itself, and where there is a surplus based on the yardstick he calls it a surplus, but where the purchase-money was sufficient according to the yardstick to give the purchaser a greater area than the yardstick permitted, he calls that a "deficiency," and he sets off the total deficiencies against the total surpluses. He contends that on that basis, taking all the transactions *in globo*, the Maori would have no claim at all in equity and good conscience because he would have been paid sums sufficient in the aggregate according to the yardstick to cover all the surplus lands as well as the lands actually granted to the purchasers.

64. I do not think it necessary to discuss Mr. Meredith's contention based on his tabulated lists, because I consider it plain that Mr. Cooney's basic contention cannot be accepted. If, however, Mr. Cooney's view were acceptable, the conclusion that Mr. Meredith seeks to draw, though it is idle to speak of "deficiencies," might not be without substance.

65. The truth is, as I see it, that the "yardstick" has no relation whatever to either the value or the area of the land *as between the purchaser and the Maori vendor.* If it had, then by reason of the fact that the provision for a maximum of 2,560 acres is really part of the "yardstick," if a purchaser paid as purchase-money a sum less than the yardstick rate, but which was nevertheless a fair and adequate consideration apart altogether from the yardstick for an area of, say, 5,000 acres, he could obtain a grant for no more than 2,560 acres, and the surplus would go to the Maoris. (And it seems to me that the same result might be claimed by the Maoris even if the consideration paid was sufficient according to the yardstick for 5,000 acres.) In other words, the Maoris would receive back a large area of land which they had sold and for which they had already received adequate consideration, they could sell it again and thus be paid twice for the same land. I am aware that Mr. Cooney's contention that the schedule was a fixation of value is supported by various suggestions or opinions made in the past to that effect—*e.g.*, in Mackay's Compendium and in the report of the Jones-Strauchon-Ormsby Commission in 1920—but the point never seems to have arisen in the form in which it arises before this Commission or to have received careful consideration in any quarter, and any such suggestions or expressions of opinion as I have indicated are, in my view, clearly erroneous and must be regarded as having been made *per incuriam.*

66. I am of the clear opinion, on careful consideration, that the schedule was a measuring-rod for one purpose and one purpose only—namely, to define the extent or quantity of land that the Crown was prepared to grant to the purchaser—and that it had nothing whatever to do with the value or area of the land as between the purchaser and the Maori vendor. It will be seen on reference to the schedule that the rate per acre varies according to the time of purchase from the 1st January, 1815, when it is practically nil, to the end of 1839, when it is 8s. In the first period, from 1st January, 1815, to 31st December, 1824, it goes up to 6d; from 1st January, 1825, to 31st December, 1829, from 6d. to 8d.; from 1st January, 1830, to 31st December, 1834, from 8d. to 1s.; during the next two years, 1835–36, from 1s. to 2s.; during the next two years, 1837–38, from 2s. to 4s.; and during the year 1839, from 4s. to 8s. It is obvious that these are simply arbitrary figures laid down by the legislative authority for ascertaining not the area of land purchased by a claimant from the Maoris, but merely the area of land which the Crown would be prepared to grant to the purchaser. Then we find that, to the rates that I have already alluded to—and, be it noted, the Ordinance speaks of *rates*, not prices or values—50 per cent. was to be added for persons not personally resident in New Zealand or not having a resident agent on the spot. What relation can non-residence